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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:

Implementation of Section 9
of the Communications Act

MD Docket 94-19

Assessment and Collection of
Regulatory Fees for the 1994
Fiscal Year

COMMENTS OF THE CABLE TELECOMMUNICATIONS
ASSOCIATION.

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Comments of the Cable Telecommunications Association

1. The Cable Telecommunications Association, ("CATA"), hereby files comments in the above-captioned proceeding. CATA is a trade association representing owners and operators of cable television systems serving approximately 80 percent of the nation's more than 60 million cable television subscribers. CATA files these comments on behalf of its members who will be directly affected by the Commission's action.

2. The Commission has proposed that for FY 1994, each cable system will be assessed a regulatory fee of \$370.00 per 1000 subscribers or any portion thereof. In the belief that the Congress did not intend to exempt systems with fewer than 1000 subscribers from paying an annual fee, the Commission has tentatively concluded that all such systems, regardless of their actual number of subscribers, will pay an annual fee of \$370.00.

3. CATA believes that the Commission's conclusion "...that cable systems with 1,000 or fewer subscribers will be assessed a fee of \$370.00 per 1000 subscribers or any portion thereof (emphasis supplied)..." is inequitable, and not supported by the legislative history of the 1993 Budget Act. That history makes it clear that, in order to assure that smaller systems do not pay a disproportionate share of the fees collected by the Commission, the fee for cable television, while expressed as a "cost per thousand," was specifically to be assessed per subscriber.

4. House Report 102-207 that accompanied H.R. 1674, the House version of what became the 1993 Budget Act, explained how the proposed fee for cable systems would be assessed. (The amount of the fee in this version of the legislation was 17.5 cents per subscriber. The final Act adjusted the fee to 37 cents per subscriber.) As a general proposition the Report at page 23 set a fee per 1000 subscribers. But the Report went on to explain:

The Committee has been concerned about escalating rates for cable television service, and is mindful that the regulatory fee contained in H.R. 1674 could cause cable rates for small systems to increase substantially. In order to avoid this outcome, it is the Committee's intention that the fee be paid on the basis of 17.5 cents per subscriber per year (emphasis supplied). This will assure that small systems do not pay a disproportionate share of the amount collected by the Commission.

5. The Committee's reasoning is based in equity. Under the Commission's proposal, a system with 100 subscribers would pay the same fee as a system with 1000 subscribers. The smaller system would then be paying ten times per subscriber as much as the larger system. Similarly, a system with 1001 subscribers would pay twice as much as a system with 1000 subscribers. In both cases, the cost of the disparate treatment eventually would be borne by the subscribers, either as an external pass-through under the new rate regulations or as an additional cost embedded in the system's rate base. In Appendix C of the Commission's Notice it is clear that small systems (systems with fewer than 1000 subscribers), with only 3.6% of the total subscribers nationwide, would pay 10.25% of the regulatory fees. It was to remedy such inequities that the Committee specifically decided to assess regulatory fees for cable systems based on a cost per subscriber, not per 1000 subscribers or any portion thereof.

6. The House conclusion that fees be assessed per subscriber was not made up out of whole cloth. As CATA recalls, the information upon which the regulatory fee structure was based was provided to the Congress by the Commission itself and, in the case of cable systems, was based on a per subscriber analysis. The Commission should check its own records.

7. CATA believes that the Congressional intent was clear. In order to avoid the obvious unfair treatment of smaller systems, the Commission was to assess fees per subscriber, not per 1000 subscribers. It should be noted further that Congress did not intend this methodology to be applied only to small systems. No definition of "small" was suggested. Rather, by assessing fees per subscriber for all systems, it would be assured that inequities that grow worse as system size declines would be eliminated. Moreover, as a general proposition, even though the cost per subscriber inequity declines as system size increases, there is still no justification for imposing a fee based on subscribers who do not exist. The figures in Appendix C of the Notice, show that the Commission's proposal would result in the collection of \$1,459,029 based on non-existent subscribers. There is simply no justification in the law for such excess.

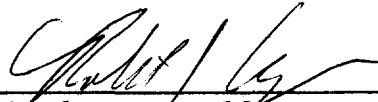
Conclusion

8. CATA is not arguing that the Commission can not or should not impose regulatory fees. Under the law it must. We urge, however, that the Commission follow the legislative history of the Budget Act and assess its fees on a per subscriber basis. To do so would provide fair treatment for all cable systems, and particularly smaller systems that would be most heavily disadvantaged by the Commission's proposal.

Respectfully submitted,

THE CABLE TELECOMMUNICATIONS
ASSOCIATION.

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